The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte Chi-Thanh Dang, Rambabu Achanta, Robert J. Hatton, Kiranmayee Potnuru, and Patricia Agbulos

Appeal No. 2006-0430
Application No. 09/859,425

MAILED

MAY 31 2006

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ON BRIEF

Before JERRY SMITH, BARRY, and MacDONALD, *Administrative Patent Judges*.
BARRY, *Administrative Patent Judge*.

A patent examiner rejected claims 1-21. The appellants appeal therefrom under 35 U.S.C. § 134(a). We affirm.

I. BACKGROUND

The invention at issue on appeal concerns language translation. Application service providers maintain networked computer systems and applications necessary to support business functions such as payment processing, invoicing, and digital rights management. An application service provider develops expertise in providing access to the particular business functions and delivers access via a communication network such as the Internet. (Spec., p. 1, ll. 13-19.)

For example, a web site requiring credit card authorization may out-source that function to a payment processing application service provider. The provider maintains service connections to banking networks, clearing houses, and credit card companies. (*Id.* at ll. 20-23.) When a user of the aforementioned web site selects the web site's payment page, the request is referred to a secured web server maintained by the payment processor for entry of credit card information. (*Id.* at ll. 24-27.) Unfortunately, the language of the referring web site may be different than that of the payment processor application service provider. (*Id.* at ll. 29-31.)

Accordingly, the appellants' dynamic translation service stores "language information" associated with specific clients and users. (Abs., ll. 1-3.) The service uses the information to determine a language. It then determines a content skeleton. Elements of the skeleton are translated into the determined language. The translated elements are then merged into the content portion. (*Id.* at ll. 4-10.)

A further understanding of the invention can be achieved by reading the following claims.

1. A system for managing dynamic translation, comprising:

a client language storage for storing language information associated with a client and user;

a skeleton determining circuit for determining at least one skeleton content elements of a received content portion, wherein the at least one skeleton content elements include graphical content elements and textual content elements;

a language table storage for storing at least one translation of each of at least one skeleton content elements based on the skeleton content element and a language;

a client and user determining circuit for determining a client and user associated with a content portion; and

a merging circuit for merging at least one translation of the at least one skeleton content elements based on the language associated with the determined client into the received content portion.

6. A method for managing dynamic translation, comprising:

receiving a content portion from a client;

determining at least one of a client and a user associated with the content portion;

determining at least one skeleton content elements of the received content portion, wherein the at least one skeleton content elements include graphical content elements and textual content elements;

determining at least one translated skeleton content elements from a language table based on the determined at least one client and user; and

merging the at least one translated skeleton content elements into the content portion.

Claims 1-21 stand rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,421,733 ("Tso") and U.S. Patent No. 6,073,147 ("Chan").

II. OPINION

"When multiple claims subject to the same ground of rejection are argued as a group by appellant[s], the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of appellant[s] to separately argue claims which appellant[s] has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately." 37 C.F.R. § 41.37(c)(1)(vii) (Sep. 30, 2004).

Here, claims 1-21 are subject to the same ground of rejection. Rather than arguing the patentability of dependent claims 2-5, 7-9, 12-15, and 17-20 separately, the appellants rely on their arguments for independent claims 1, 6, 11, and 16, respectively. (Appeal Br. at 15, 20, 21, 25.) Therefore, we select each independent claim as representative of its dependent claims. With this representation in mind, rather than reiterate the positions of the examiner or the appellants *in toto*, we focus on the two

points of contention therebetween, viz., storing translations and translating textual and graphical elements.

A. STORING TRANSLATIONS

> The examiner makes the following findings.
>
> Since Tso specifically teaches dynamic translation of language content, the Examiner believes Tso teaches the claimed language table storage. The Examiner believes a reasonable interpretation of a table is an orderly arrangement of data. In light of this reasonable interpretation, a language table for translation purposes is necessary to match each original language content element with a corresponding translated language content element. Thus, the Examiner believes Tso necessarily teaches a language table storage to implement the dynamic language translation described in col. 8 lines 41-50.

(Examiner's Answer at 16.) The appellants argue, " it is incorrect and unreasonable to consider the storage of font information by Chan to teach or suggest storage of characters." (Appeal Br. at 11.)

"In addressing the point of contention, the Board conducts a two-step analysis. First, we construe the representative claims at issue to determine their scope. Second, we determine whether the construed claims would have been obvious." *Ex Parte Suzuki*, No. 2002-2177, 2004 WL 1046892, at *3 (Bd.Pat.App & Int. 2004).

1. Claim Construction

"Analysis begins with a key legal question — *what* is the invention *claimed*?" *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1567, 1 USPQ2d 1593, 1597 (Fed. Cir. 1987). In answering the question, "limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184, 26 USPQ2d 1057, 1059 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)).

Here, independent claims 1 and 16 recite in pertinent part the following limitations: "a language table storage for storing at least one translation of each of at least one skeleton content elements based on the skeleton content element and a language. . . ." In contrast, independent claims 6, 11, and 21 recite "a language table," without specifying what is stored therein.

2. Obviousness Determination

"Having determined what subject matter is being claimed, the next inquiry is whether the subject matter would have been obvious." *Ex Parte Massingill*, No. 2003-0506, 2004 WL 1646421, at *3 (Bd.Pat.App & Int. 2004). Here, the examiner has relied on Tso to teach the aforementioned limitations. The appellants have not

addressed the cited teachings of Tso but have instead discussed other teachings of Chan. We find such a discussion immaterial to the examiner's reliance on Tso.

B. TRANSLATING TEXTUAL AND GRAPHICAL ELEMENTS

The examiner finds, "Tso teaches a skeleton determining circuit for determining at least one skeleton content elements of a received content portion in fig. 3, col. 3 line 31 - col. 4 line 37, and col. 8 lines 41-50." (Examiner's Answer at 4.) The appellants argue, "because the bit-mapped and outline formats of Chan are only information related to a font, neither of the formats provide a graphical content element, as recited in the independent claims." (Reply Br. at 3.) They also argue, "Nowhere does Chan disclose using both formats. . . ." (*Id.* at 2.)

1. Claim Construction

"[T]he PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324, 72 USPQ2d 1209, 1211 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1668 (Fed. Cir. 2000)). Here, all the independent claims recite in pertinent part the following limitations: "the at least one skeleton content element textual content elements include graphical content elements and textual content elements. . . ." (Emphasis added.) Giving the independent claims their broadest, reasonable construction, we interpret the limitations to recite translating plural

content elements, some of which are graphical elements and others of which are textual elements.

2. Obviousness Determination

The question of obviousness is "based on underlying factual determinations including . . . what th[e] prior art teaches explicitly and inherently. . . ." *In re Zurko*, 258 F.3d 1379, 1383, 59 USPQ2d 1693, 1696 (Fed. Cir. 2001) (citing *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966); *In re Dembiczak*, 175 F.3d 994, 998, 50 USPQ 1614, 1616 (Fed. Cir. 1999); *In re Napier*, 55 F.3d 610, 613, 34 USPQ2d 1782, 1784 (Fed. Cir. 1995)). Of course, "'[e]very . . . reference relies to some extent upon knowledge of persons skilled in the art to complement that [which is] disclosed. . . .'" *In re Bode*, 550 F.2d 656, 660, 193 USPQ 12, 16 (CCPA 1977) (quoting *In re Wiggins*, 488 F.2d 538, 543, 179 USPQ 421, 424 (CCPA 1973)). Those persons "must be presumed to know something" about the art "apart from what the references disclose." *In re Jacoby*, 309 F.2d 513, 516, 135 USPQ 317, 319 (CCPA 1962).

Here, Tso's "invention may . . . be used for dynamic translation of data, such as Web pages, to a user's native language (determined by user preference or automatically by the physical location of network client 12 or transcoding server 34).

Such a capability greatly simplifies the task of making content truly global. . . ." (Col. 8, ll. 41-46.) Because the reference's invention works with global content, a person skilled in the art would have understood that it can translate Web page content written in a textual language such as English or in a pictographic language such as Japanese, Chinese, or Korean. If a Web page contained both textual elements and pictographic elements, a person skilled in the art would have also understood that Tso's invention would have translated both the textual elements and pictographic elements.[1] Therefore, we affirm the rejection of claims 1, 6, 11, 16, and 21, and of claims 2-5, 7-9, 12-15, and 17-20, which fall therewith.

III. CONCLUSION

In summary, the rejection of claims 1-21 under § 103(a) is affirmed.

"Any arguments or authorities not included in the brief will be refused consideration by the Board of Patent Appeals and Interferences. . . ." 37 C.F.R. § 1.192(a). Accordingly, our affirmance is based only on the arguments made in the briefs. Any arguments or authorities omitted therefrom are neither before us nor at issue but are considered waived. *Cf. In re Watts*, 354 F.3d 1362, 1367, 69 USPQ2d

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[1]We consider the teachings of Chan cumulative to those of Tso.

1453, 1457 (Fed. Cir. 2004) ("[I]t is important that the applicant challenging a decision not be permitted to raise arguments on appeal that were not presented to the Board.")

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

JERRY SMITH
Administrative Patent Judge

LANCE LEONARD BARRY
Administrative Patent Judge

ALLEN R. MacDONALD
Administrative Patent Judge

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) AND
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